

Lewis County Planning Commission

Public Hearing

Lewis County Courthouse
Commissioners' Hearing Room – 2nd Floor
351 NW North St – Chehalis, WA

May 28, 2013 - Meeting Notes

Planning Commissioners Present: Mike Mahoney, Russ Prior, Bob Guenther, Jim Lowery, Arny Davis, Richard Tausch, Clint Brown

Staff Present: Stan May, Fred Chapman, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from May 14, 2013
- Staff Report: Chapter 15.35
- Chapter 15.35 Draft

1. Call to Order

Chairman Davis called the meeting to order at 6:01 p.m. The Commissioners introduced themselves.

2. Approval of Agenda

There were no changes to the agenda.

3. Approval of Meeting Notes

The Chair entertained a motion to approve the meeting notes from May 14, 2013. The motion was made and seconded. Commissioner Prior made a correction on page 2, paragraph 5. Line 3 reads 'one foot above sea level.' It should read 'one foot above BFE.' The meeting notes were approved with the correction.

4. Public Hearing

A. Public Hearing on Public Benefit Rating System (Open Space)

Chairman Davis opened the public hearing at 6:03 p.m.

Mr. Jason Morgan, administrator for the open space and designated forest land tax programs for Lewis County, explained the purpose of and process for open space classification. He stated there were originally nine applications; one has been withdrawn.

Each parcel has been inspected to verify that the acres and application are being preserved for immediate return to commercial farming in the future as outlined in LC Code. Each application was reviewed by the Public Benefit Rating System Committee which determined that each parcel qualified per Washington State Law and Lewis County Code for a 40% reduction off of market value taxes. Land owners approved for farm conservation land see a significant increase in their tax bill from what they

paid in the commercial farm program but they avoid removal from the open space program. Lands removed from open space are required to pay back everything they "saved" in the previous 7 years plus interest plus 20%. The Legislature created farm conservation land to keep the land available for future farming. This classification allows people no longer physically able to farm themselves to stay on their farm by arranging for someone else to farm for them.

Mr. Morgan asked for questions.

Commissioner Lowery stated all but one application received a 40% reduction. He asked why one received only 30%. Mr. Morgan stated it was determined by the number of points that were received based on the questionnaire/checklist.

Commissioner Mahoney stated he was on the Committee and that 40% is the maximum allowed; only one did not get the maximum points for that reduction. Every decision was unanimous within the committee.

Commissioner Brown stated the application that received 30% had been withdrawn and would not be considered. Mr. Morgan stated that was correct.

Chairman Davis stated he was concerned about "buyer beware" when the application comes out of open space. He asked if there was a way that during the transaction that the back taxes could be taken care of rather than having the transaction closed to discover there are seven years' worth of taxes. Mr. Morgan stated the tax bill needs to be paid before the transaction can go through.

Chairman Davis asked for testimony. There was none.

Commissioner Lowery made a motion to accept the recommendation of the committee on eight properties. The motion was seconded and the motion carried unanimously.

Chairman Davis closed the public hearing at 6:11 p.m.

5. Old Business

A. Workshop on Chapter 15.35, Flood Damage Prevention

Mr. May stated several comments were received during and after the public hearing in Randle. Responses are reflected in the staff report. Of the 13 written responses, ten were against raising the freeboard to three feet; two were in favor of a two-foot freeboard; and one was in favor of the three-foot freeboard. No comments were made on the other proposed revision to the chapter.

Staff provided three options for the Planning Commission:

1. Continue to workshop this issue as is and get more input.
2. Take action tonight and send it on to the BOCC; however, the three-foot freeboard is largely unresolved.
3. Since the 3' freeboard has a lot of opposition, the freeboard could be left at 1' as it currently is and get the rest of the revisions moved on in order to assist the Community Assistance Visit.

Chairman Davis asked Mr. May to review the other proposed revisions.

Mr. May stated the first changes are definitions (in alphabetical order) for "Basement," "Development," "Freeboard," "Market Value." Market Value was added after discussion and request by the Planning Commissioners.

Commissioner Lowery asked if (a) or (e) was to be used to determine market value. Mr. May stated any of the options could be used; they are all acceptable. Commissioner Lowery stated the language does not say the property owner can do this. Who "accepts" the market value?

Mr. May stated it comes from "substantial improvements" in the chapter: "Any reconstruction, rehabilitation or addition or other improvements of a structure, the cost of whichexceeds 50% of the market value...." We needed to determine market value and that is how the definition came about.

Commissioner Brown stated the structure is incorrect on page 5. It reads a, b, e, f, g. Mr. May stated it should read a, b, c, d, e.

Commissioner Brown stated hypothetically he has a piece of property valued at \$250,000 and the home on that property is valued at \$50,000. If there is \$25,001 in damage done to the home, then that is considered substantial damage. No damage to the rest of the property is taken into account. Mr. May stated that is correct.

Chairman Davis stated all of the ways to obtain market value are acceptable and it is driven by the land owner. Mr. May stated that is correct. If staff is unsure or thinks it needs to be verified, they will do that. Chairman Davis stated the phrase "acceptable estimates of market value can be obtained in the following ways" seems nebulous to him. Mr. May stated that would be looked into further.

Commissioner Prior stated the 51% damage is being imposed by the Federal government. Mr. May stated that is correct and it is pretty standard for substantial damage. Mr. Chapman stated that regulation has been in place since 1981.

Commissioner Mahoney stated that if there is substantial damage in a flood way the building has to be removed and cannot be rebuilt. If it is in a flood plain it can be rebuilt. The structure is the only thing covered by flood insurance and therefore is the only thing to consider.

Chairman Davis retracted his previous request after Commissioner Mahoney's comment.

Mr. May continued with the definitions. "Start of construction" has some language added for clarification; "Repetitive Loss" is new; "Substantial improvement" includes FEMA requirements.

Mr. May stated 15.35.060 includes some changes to the language to make it more accurate. 15.35.150 has language added per the recommendation of Community Assistance Visit. Some phrases were added under 5, General Restrictions (a) and 6, Notice.

15.35.190, Flood Hazard Reduction includes some minor changes to the language.

15.35.210 (3) has a change to one foot of freeboard above BFE. Commissioner Prior stated if one foot of freeboard is required for heating and venting equipment that would raise the first floor level up to two feet.

Mr. Chapman stated a heat pump could be elevated outside. The new technologies allow for duct work to be run overhead inside the structure. The finished floor is what is being surveyed for the BFE. Any amenities that serve that structure need to be out of harm's way.

Commissioner Prior stated the three foot freeboard is independent of that. A three-foot freeboard requirement is only a one-foot freeboard requirement in addition to what code already states because of the utilities being required to be one foot above.

Mr. Chapman stated duct work can be run within the floor framing. On some structures the big trunk lines can be suspended under the floor. Those utilities need to be built or elevated to the same standard as the freeboard standard. Any wiring needs to be above base flood.

Commissioner Brown stated that what Mr. Chapman just said is not what 15.35.210 says. It says "...equipment and other service facilities..." It does not say the heat pump outside.

Mr. Chapman stated the heat and the electrical are prone to damage. The piping, plumbing, waterlines, are not damaged by the flood.

Commissioner Prior stated the requirement will be to have some sub-grade utilities to be one foot above BFE. That is essentially saying the finished floor level has to be at least a foot and a half above. The three foot freeboard that his neighbors are opposed to is really only 18".

Mr. Chapman stated it would be two feet since the standard is already at one foot freeboard. He does not require any utilities to be elevated beyond the current level of the one foot freeboard. That would be a heat pump, the duct work. In some cases the duct work is not elevated and if it is damaged the home is re-evaluated and they will end up paying. Commissioner Prior stated in those cases those utilities are less than one foot above freeboard. Mr. Chapman stated on the older structures, yes. When there are repetitive loss claims – two within a ten year period – you go into the repetitive loss category even if it is just to replace the trunk line. FEMA is trying to get those elements that are insured and covered under the home owner's policy to be elevated at least above freeboard. The Federal standard is at base flood with the first floor and utilities. Lewis County has a higher regulatory standard which requires one foot of freeboard for all elements. The finished floor is at one foot above but the insulation could still be damaged. If you claim it for damage as a loss it goes on your premium record which is tracked by FEMA. That is how they establish the repetitive losses. The new language is proposing to get everything up at least one foot or more above base flood.

Commissioner Prior stated if the Planning Commission goes with option three with a one-foot freeboard requirement then this document will be inconsistent. On one hand it says sub-floor utilities have to be one foot above freeboard, but the finished floor has to be a minimum of one foot of freeboard.

Mr. Chapman stated the sub-grade utilities are the heating components and the electrical, or it could be a floor-mounted gas furnace. We are trying to get those elements out of harm's way.

Commissioner Guenther stated he believed Commissioner Prior was right. If you put a floor one foot above BFE and you put a six inch duct under the floor you are out of compliance.

Mr. Chapman stated Lewis County requires that now. We require elevation of those amenities one foot above. Commissioner Prior stated that makes the code inconsistent. Mr. Chapman stated he would look at it again.

Commissioner Lowery stated it is not required now; it is added. Otherwise it says "so as to prevent water from entering or accumulating within the components during conditions of flooding."

Chairman Davis stated this particular language would be brought back. He asked if Mr. May had anything else to discuss. Mr. May stated at this time he would like to pull to code back and drop the options. These concerns need to be addressed or explained.

Chairman Davis asked if the one foot for amenities issue is cleared up in the language, is the Planning Commission comfortable in reviewing the options and choosing one, or is there another option.

Commissioner Brown stated after the meeting in Randle there were a lot of people who misunderstood what was being proposed. There needs to be better understanding within the community about what is being proposed. Some people think their current home is going to need to be raised to three feet. Another issue was having someone from FEMA coming to talk to the Commission.

Mr. Chapman stated he contacted FEMA and was told FEMA has been sequestered. They are not allowed to travel. He asked if a video workshop was possible and that is being explored but FEMA has not gotten back to Mr. Chapman yet.

The Commission stated they would welcome that if it was possible.

Commissioner Brown stated if a new home has to be elevated 3 feet, what will that do to the value of the older homes that are not elevated. And will there be actual savings to Lewis County as a whole by doing this? There are a lot of questions and there is a lot of misunderstanding about what is being proposed.

Commissioner Lowery agreed with Commissioner Brown. People have the wrong idea about what is proposed. He would like to see input based on what is proposed. People think existing homes have to be raised and what he thinks it means is that new homes or homes that have had substantial damage have to be raised. Mr. Chapman stated that was correct.

Commissioner Lowery was also concerned about the three options. When the new FEMA maps come out there will be people who are affected that don't know it yet. He doesn't have a problem discussing the three feet but everyone needs to know who is going to be involved before the new standard is imposed.

Mr. May stated the preliminary maps, if adopted, do not change the flood plain; they expand the flood way. If you are already in the flood plain, you will still be in the flood plain. If you are not in the flood

plain, there is a chance you will not be added. There will be some areas where there will be some properties added.

Commissioner Prior stated people who are not in the flood way now but are going to be based on the new maps are going to want to know. They will be concerned about the three feet elevation.

Chairman Davis stated he would like to see the effect of the property value and being able to get a first mortgage. If there is some clarification that can be brought to the public it would be helpful.

Commissioner Guenther did not think people in Randle understood if they were in the flood way or flood plain. He would like to see maps and have the flood way and flood plain explained. He did not think the Planning Commission is ready to make a recommendation yet.

Chairman Davis stated staff has its direction on Chapter 15.35.

B. Large Lot Subdivision Workshop

Mr. May stated the Planning Commission received a different version of the Large Lot Subdivision update at the last meeting. There was concern about clarification within the code which he will discuss shortly. The 20 acre exemption will be kept except for FRL (Forest Resource Land). A new exemption for conservation lots will be added. The revised proposal as it sits now with these two additions is supported by the forest industry and the surveyors.

An earlier comment was that the Mason County code was a good model. Mr. May stated the Mason County code was the model that was used for the latest revision. He split up the Mason County language into three separate paragraphs which he thought made it easier to understand.

Commissioner Prior stated he counted nine uses of the word "or" and thought it was confusing. He did not remember seeing that in the Mason County Code. Mr. May apologized and stated he did not have the current version before the Planning Commission.

Commissioner Guenther stated before Mr. May started working at the County the Planning Commission held a hearing in Mineral and talked about the Forecastle land. It recommended to the BOCC that it be left as it was. The zoning was left at 20 acres and the county ended up in court. The court ruled that the County was not in compliance with GMA so it was revisited to put it back the way it was. What does that do to the Forecastle land around Mineral Lake the way it reads now?

Mr. May stated that issue is done. Commissioner Guenther asked what "done" means. Mr. May stated the rezone was rescinded. Commissioner Guenther asked if they cannot now make 20 acre lots. Mr. May stated that was correct.

Commissioner Brown stated he understood the idea behind this was to address the Forecastle issue. If that has been put to bed, why are we doing this? Mr. May stated it was to address the potential issue that existed. Commissioner Brown stated the potential issue that existed with Forecastle-? Mr. May stated the potential issue that existed with anyone.

Mr. May stated on occasion someone would submit a simple segregation survey. It would usually be caught but it would be breaking up an 80-acre FRL land into smaller parcels because 20 acres and larger were exempt from going through the subdivision. This was to close that gap so it would not be an issue. Now when they look at the zoning and see 80 acres, and look at the subdivision code they see it is 80 acres FRL and a simple segregation cannot be done.

Commissioner Brown asked if there is any land other than FRL that exists in Lewis County to which this would apply. Mr. May stated no. Commissioner Brown asked why it is being done then if the only land that this would apply to is FRL and FRL is excluded.

Mr. May stated this code would exempt it up to 80 acres. Right now it is zoned for 80 acres but the subdivision code exempts any land divisions of 20 acres or more from going through the subdivision code. Someone does not have to go to Community Development to get a permit or to have it reviewed for land use. With the new language they will have to do that.

Commissioner Guenther understood that during litigation Forecastle filed for the 20 acres and they now have standing because it was before the court made the decision. He asked if that is now put to bed and done.

Mr. May stated the situation Commissioner Guenther described would not be undone by this code but the County is fully aware of that situation. He does not know if it has been rescinded by Forecastle or not. Glenn Carter was looking into it. That is what we are trying to prevent and one of those situations that fell through the cracks.

Commissioner Lowery stated this would not prevent that. If they exercise their standing it's already there, so this language would not affect it because this language was not there when we did this. Mr. May stated it still wasn't reviewed by Community Development to put the brakes on because it was in the courts.

Commissioner Guenther stated what the Growth Management Hearings Board said is to go back and look at it. That's what we've done and why we have come back with this language: to fix it. Mr. May stated it may not change what Forecastle did. This is to close any loophole that was discovered during the process. It may not have prevented it even in this situation.

Commissioner Brown stated this will not apply to Forecastle because it was done in the past. It seems that this would apply and asked why it does not apply. Mr. May stated it would apply in the future. Forecastle did their simple segregation survey last year and this does not undo that. The court order moved them out of the 20-acre and into 80-acre lots. They are not 80's any longer – they are back in FRL. The Board repealed that portion of the ordinance.

Commissioner Brown stated the Board said the Forecastle land is back in FRL. This excludes FRL so this does not apply to the Forecastle land. Mr. May stated no, it applies to it today. If they were to try to do it today, it would apply. It does not apply to what occurred last year. Chairman Davis stated under this language you cannot do a simple subdivision: create 4 20-acre lots out of an 80-acre lot. Mr. May stated that is correct.

Commissioner Lowery stated that Mr. Carter told the Planning Commission after the court decision that since they had filed for 20-acre plots that they could potentially go ahead with it. Mr. May stated he does not know what Forecastle is going to do with the 20-acre parcels. The zoning was not changed at that time – Forecastle divided the land into 20-acre parcels and filed that with the Auditor. That is what this revision does not undo.

Commissioner Brown asked if Forecastle comes in today, they may have four 20-acre parcels on an 80-acre lot, but if they applied for a building permit they could only put one building on that 80 acre parcel. Mr. May stated, you are asking: could they get four building permits? That will have to be decided by the courts unless Forecastle decides to revert the property back to 80-acre parcels because they converted them when they were zoned 20 acres.

Chairman Davis asked if there was any public comment.

Ron Nilson, representing himself and Friends of Mineral Lake, stated [Forecastle] would be challenged if they tried to develop the 20-acre lots. The Friends of Mineral Lake and the Washington Forest Law Center want to know if this change will allow Forecastle to divide the 80's into 20's. Can they do that and use this as a reason?

Mr. May stated this [code revision] is to make it so they cannot. This code is part of the exceptions. The subdivision code applies to everything except 20 acres or more except in the FRL zone, where the exemption must be 80 acres.

Mr. Nilson stated Mineral Lake is in a jam and the Friends are trying to do something to preserve it as it is. It is the only lake in lowland Lewis County. Why would we want to develop it like other lakes? Mineral would not be the same if it is developed; the lake would not be the same. In the long run if it stays the way it is and some land trust can buy it then hundreds of thousands of people will enjoy it the way it is forever. Some people just want to develop because they think they can make a quick buck but is it going to be for the few in the future or will it be for the many. We are not opposed to development in the right place. Conservation to us means wise use of land. He stated he would take this information back to his advisors.

Chairman Davis asked Mr. Nilson to put anything he finds out in writing.

There was no other public comment.

Commissioner Guenther confirmed that there would be a public hearing on this. Chairman Davis stated yes. Commissioner Mahoney made a motion to set the public hearing on Large Lot Subdivision for June 25. Commissioner Lowery seconded. The motion carried unanimously.

C. Title 17 Update

Mr. May stated he met with the advisory committee for a general work plan for the Title 17 update. So far the various components that have been drafted are general provisions, zone districts, rural, urban, resource and overlay zones and definitions. He is currently working on the use provisions, trying to create tables so we can more easily find which uses are permitted in which zones. The development standards are still to be tackled, along with the environmental section, administration and procedures.

The update is probably about 50% complete. It will most likely be a couple more months before it comes to the Planning Commission.

D. SMP Update

Mr. May stated that the current status is the jurisdiction maps are completed; a Technical Advisory Committee (TAC) has been formed and three Citizen Advisory Committees (CAC) have been formed. The latter each represent Centralia, Chehalis, and the County with Morton and Winlock. A kick-off meeting with the CAC will be next week if there will be enough participation with a week's notice.

The inventory and characterization report is a complete draft from the science consultants. It has been distributed to the TAC for review.

Commissioner Prior asked if the CAC would have access to that report. Mr. May stated yes; but, the CAC and the TAC have different responsibilities. The TAC will review the report to make sure they are comfortable with the sources, results and recommendations from a scientific point of view. The CAC will use it to help drive decisions for policies and goals.

The scheduled adoption has been moved to June of 2014. There was concern that a lot of work would be dumped on the Planning Commission requiring a rush decision. The goal is not to do that. The Planning Commission should be getting involved this summer. The CAC and the TAC will do the heavy lifting so the Planning Commission can do the fine tuning.

Commissioner Brown asked when the Planning Commission would be ready to recommend to the BOCC.

Mr. May stated about six to nine months will be spent with the Planning Commission, finishing up early in 2014.

E. Comprehensive Plan Letter of Transmittal

Chairman Davis asked if there were any comments on the letter of transmittal. Commissioner Mahoney stated this has been discussed quite a bit and was agreed to. He made a motion to direct the Chair to sign the letter of transmittal. The motion was seconded by Commissioner Lowery. The motion carried.

Chairman Davis complimented staff on the short, concise letter of transmittal.

6. New Business

There was no new business.

7. Calendar

The next meeting will be on June 11, 2013 at the Lewis County Courthouse.

8. Good of the Order

Commissioner Prior thanked the Planning Commission for going to Randle two weeks ago. He heard kind words about this body – people were pleased at how thoughtful and reasonable the Commission appeared. He thanked Ms. Anderson for allowing the Commission to change the venue. He knew it was difficult.

Commissioner Brown agreed that it was a good meeting and he appreciated the extra effort by staff. He thought this type of meeting should be done more often.

Commissioner Lowery thanked Commissioners Prior and Brown for having people there to talk and to listen. It lets the people know what the Commission is wrestling with. There was a very good turnout.

Commissioner Guenther stated when the meeting was opened there was a lot of tension in the room but after about 20 minutes of staff giving reports and answering questions, it turned into a very healthy debate. He felt there should be more educational meetings; provide maps and documentation ahead of time so the public can formulate their questions and comments.

9. Adjourn

A motion was made and seconded to adjourn. Adjournment was at 7:26 p.m.